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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,135	08/06/2003	Miksa Marton	04004.007	8411

7590 09/07/2004

Fildes & Outland, P.C.

Suite 2

20916 Mack Avenue

Grosse Pointe Woods, MI 48236

EXAMINER

SHAKERI, HADI

ART UNIT	PAPER NUMBER
3723	

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/635,135

**Applicant(s)**

MARTON, MIKSA

**Examiner**

Hadi Shakeri

**Art Unit**

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because of undue length. Correction is required. See MPEP § 608.01(b).
3. The disclosure is objected to because of the following informalities: Page 1, line 11, -- now US Patent No. 6,413,161-- should be added after "09/738,305".

Appropriate correction is required.

### ***Claim Objections***

4. Claims 1-3 objected to because of the following informalities: regarding claim 1, lines 9-14, although not indefinite (in view of specification) is inappropriate, i.e., the language as written, appear to recite the annular frame to be part of the sanding pad assembly, in which case, the edges recited cannot be disposed between the housing and the assembly which includes the edges. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

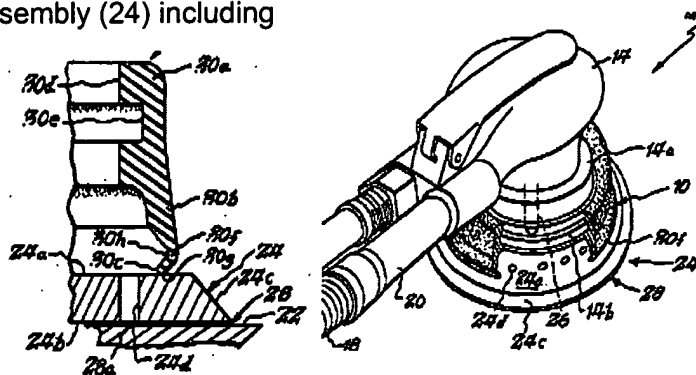
A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Huber (4,531,329).

Huber discloses all of the limitations of claim 1, i.e., a rotary orbital tool (col. 2, line 44) with a suction housing (14a), a sanding pad assembly (24) including a backing pad (24c), having plurality of holes (24d), an annular frame with a circumferential side wall having circumferential edges (30a, 30 c), a circular back wall extending from one of the edges (30a) and having an opening (defined by 30d) sealable with the housing and the other edge (30c) attached to the backing pad.



Regarding claim 3, Huber meets the limitations, sanding disk (28) having corresponding holes (28a).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

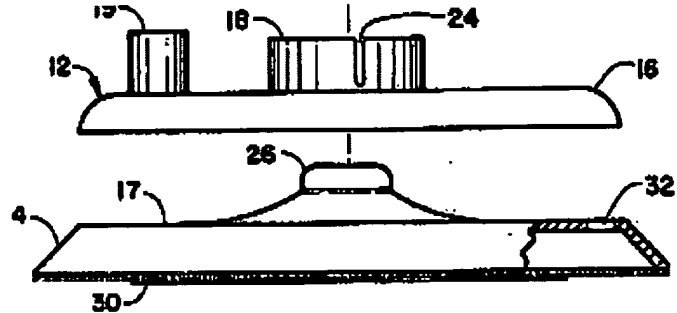
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3 are rejected under 35 U.S.C. 103(a) as obvious over Courson et al. (5,609,516).

Courson et al. meets all of the limitations of claim 1, i.e., a rotary tool with a suction housing (12), a sanding pad assembly (40) including a backing pad, having plurality of holes

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(60), an annular frame (14) with a circumferential side wall having circumferential edges, a circular back wall extending from one of the edges and having an opening sealable with the housing and the other edge attached to the backing pad (through 48), except for specifically disclosing the type of the sander, i.e., orbital. Courson et al. discloses that any suitably sander may be



used, col. 4, line 17. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an orbital sander, dependent on work-piece and/or operational parameters, since it is known in the art and commonly used, which would involve only routine skill in the art. Although the connection of the lower edge to the pad is considered to meet the recitation as recited, it is also noted that Courson et al. discloses that any suitably means may be used to connect the pad to the mounting member (42), col. 6, lines 5-8, in the alternative, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use other means known in the art and commonly used in the art, e.g., mechanical fasteners to secure the pad to the mounting member, depending on the operational parameters, e.g., cost.

Regarding claim 2, Courson et al. meets the limitations, a plurality of ribs (34) and legs.

Regarding claim 3, Courson et al. meets the limitations, sanding disk (50) having corresponding holes not shown but inherent.

### **Conclusion**

9. Prior art made of record and not relied upon are considered pertinent to applicant's disclosure. Thielen, Sun et al., Myers, Huang, Marton and Oimoen are cited to show related inventions.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is 703-308-6279. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail, III can be reached on 703-308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Hadi Shakeri', with a stylized flourish at the end.

Hadi Shakeri  
Primary Examiner  
Art Unit 3723  
September 1, 2004